

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1340

By: Montgomery

AS INTRODUCED

An Act relating to student data; amending Section 1, Chapter 356, O.S.L. 2013, as amended by Section 1, Chapter 33, O.S.L. 2015 (70 O.S. Supp. 2019, Section 3-168), which relates to the Student Data Accessibility, Transparency and Accountability Act of 2013; modifying certain definition; allowing school districts to submit certain tribal affiliation data beginning in certain school year; requiring school districts to submit certain tribal affiliation data beginning in certain school year; updating statutory references; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 356, O.S.L. 2013, as amended by Section 1, Chapter 33, O.S.L. 2015 (70 O.S. Supp. 2019, Section 3-168), is amended to read as follows:

Section 3-168. A. This section shall be known and may be cited as the "Student Data Accessibility, Transparency and Accountability Act of 2013".

B. As used in ~~this act~~ the Student Data Accessibility, Transparency and Accountability Act of 2013:

1. "Board" means the State Board of Education;

1 2. "Department" means the State Department of Education;

2 3. "Data system" means the Oklahoma State Department of
3 Education student data system;

4 4. "Aggregate data" means data collected and/or reported at the
5 group, cohort, or institutional level;

6 5. "De-identified data" means a student dataset in which parent
7 and student identifying information, including the state-assigned
8 student identifier, has been removed;

9 6. "Student testing number" means the unique student identifier
10 assigned by the state to each student that shall not be or include
11 the Social Security number of a student in whole or in part;

12 7. "Student data" means data collected and/or reported at the
13 individual student level included in a student's educational record.

14 a. "Student data" includes:

15 (1) state and national assessment results, including
16 information on untested public school students,

17 (2) course taking and completion, credits earned, and
18 other transcript information,

19 (3) course grades and grade point average,

20 (4) date of birth, grade level and expected
21 graduation date/graduation cohort,

22 (5) degree, diploma, credential attainment, and other
23 school exit information such as General
24 Educational Development and drop-out data,

- (6) attendance and mobility,
- (7) data required to calculate the federal four-year adjusted cohort graduation rate, including sufficient exit and drop-out information,
- (8) discipline reports limited to objective information sufficient to produce the federal Title IV Annual Incident Report,
- (9) remediation,
- (10) special education data,
- (11) demographic data, including Native American identification as provided for in subsection D of this section, and program participation information, and
- (12) military student identifier.

b. Unless included in a student's educational record, "student data" shall not include:

- (1) juvenile delinquency records,
- (2) criminal records,
- (3) medical and health records,
- (4) student Social Security number, and
- (5) student biometric information; and

8. "Military student identifier" means a unique identifier for each student whose parent or guardian is a member of the Armed Forces of the United States, a reserve component of the Armed Forces

1 of the United States or the National Guard which will allow for the
2 disaggregation of each category.

3 C. The State Board of Education shall:

4 1. Create, publish and make publicly available a data inventory
5 and dictionary or index of data elements with definitions of
6 individual student data fields currently in the student data system
7 including:

8 a. any individual student data required to be reported by
9 state and federal education mandates,

10 b. any individual student data which has been proposed
11 for inclusion in the student data system with a
12 statement regarding the purpose or reason for the
13 proposed collection, and

14 c. any individual student data that the State Department
15 of Education collects or maintains with no current
16 purpose or reason;

17 2. Develop, publish and make publicly available policies and
18 procedures to comply with the Federal Family Educational Rights and
19 Privacy Act (FERPA) and other relevant privacy laws and policies,
20 including but not limited to:

21 a. access to student and de-identified data in the
22 student data system shall be restricted to:

23 (1) the authorized staff of the State Department of
24 Education and the Department's contractors who
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1 require such access to perform their assigned
2 duties, including staff and contractors from the
3 Information Services Division of the Office of
4 Management and Enterprise Services assigned to
5 the Department,

6 (2) district administrators, teachers and school
7 personnel who require such access to perform
8 their assigned duties,

9 (3) students and their parents, and

10 (4) the authorized staff of other state agencies in
11 Oklahoma as required by law and/or defined by
12 interagency data-sharing agreements,

13 b. the State Department of Education shall use only
14 aggregate data in public reports or in response to
15 record requests in accordance with paragraph 3 of this
16 subsection,

17 c. the State Department of Education shall develop
18 criteria for the approval of research and data
19 requests from state and local agencies, the State
20 Legislature, researchers and the public:

21 (1) unless otherwise approved by the State Board of
22 Education, student data maintained by the State
23 Department of Education shall remain
24 confidential, and

1 (2) unless otherwise approved by the State Board of
2 Education to release student or de-identified
3 data in specific instances, the Department may
4 only use aggregate data in the release of data in
5 response to research and data requests, and

6 d. notification to students and parents regarding their
7 rights under federal and state law;

8 3. Unless otherwise approved by the State Board of Education,
9 the State Department of Education shall not transfer student or de-
10 identified data deemed confidential under division (1) of
11 subparagraph c of paragraph 2 of this subsection to any federal,
12 state or local agency or other organization/entity outside of the
13 State of Oklahoma, with the following exceptions:

- 14 a. a student transfers out of state or a school/district
15 seeks help with locating an out-of-state transfer,
16 b. a student leaves the state to attend an out-of-state
17 institution of higher education or training program,
18 c. a student registers for or takes a national or
19 multistate assessment,
20 d. a student voluntarily participates in a program for
21 which such a data transfer is a condition/requirement
22 of participation,
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- e. the Department enters into a contract that governs databases, assessments, special education or instructional supports with an out-of-state vendor,
- f. a student is classified as "migrant" for federal reporting purposes, or
- g. a student with a military student identifier for purposes of assisting the Department of Defense in developing policy and military child education initiatives;

4. Develop a detailed data security plan that includes:

- a. guidelines for authorizing access to the student data system and to individual student data including guidelines for authentication of authorized access,
- b. privacy compliance standards,
- c. privacy and security audits,
- d. breach planning, notification and procedures, and
- e. data retention and disposition policies;

5. Ensure routine and ongoing compliance by the State Department of Education with FERPA, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of ~~this act~~ the Student Data Accessibility, Transparency and Accountability Act of 2013, including the performance of compliance audits;

1 6. Ensure that any contracts that govern databases, assessments
2 or instructional supports that include student or de-identified data
3 and are outsourced to private vendors include express provisions
4 that safeguard privacy and security and include penalties for
5 noncompliance;

6 7. Notify the Governor and the Legislature annually of the
7 following:

8 a. new student data proposed for inclusion in the state
9 student data system:

10 (1) any new student data collection proposed by the
11 State Board of Education becomes a provisional
12 requirement to allow districts and their local
13 data system vendors the opportunity to meet the
14 new requirement, and

15 (2) the State Board of Education must submit any new
16 "provisional" student data collection to the
17 Governor and the Legislature for their approval
18 within one (1) year in order to make the new
19 student data a permanent requirement. Any
20 provisional student data collection not approved
21 by the Governor and the Legislature by the end of
22 the next legislative session expires and is no
23 longer required,

- 1 b. changes to existing data collections required for any
2 reason, including changes to federal reporting
3 requirements made by the U.S. Department of Education,
4 c. an explanation of any exceptions granted by the State
5 Board of Education in the past year regarding the
6 release or out-of-state transfer of student or de-
7 identified data, and
8 d. the results of any and all privacy compliance and
9 security audits completed in the past year.

10 Notifications regarding privacy compliance and
11 security audits shall not include any information that
12 would itself pose a security threat to the state or
13 local student information systems or to the secure
14 transmission of data between state and local systems
15 by exposing vulnerabilities; and

16 8. By July 1, 2016, include a military student identifier in
17 the state student data system.

18 D. 1. Beginning with the 2020-2021 school year, school
19 districts may submit demographic data for students who are Native
20 American to designate the student's tribal affiliation.

21 2. Beginning with the 2021-2022 school year, school districts
22 shall submit demographic data for students who are Native American
23 to designate the student's tribal affiliation.

1 E. The State Board of Education shall adopt rules for the State
2 Department of Education to implement the provisions of the Student
3 Data Accessibility, Transparency and Accountability Act of 2013.

4 ~~E. F.~~ Upon ~~the effective date of this act~~ July 1, 2013, any
5 existing collection of student data by the State Department of
6 Education and the addition of a military student identifier to the
7 student data collected by the Department after ~~the effective date of~~
8 ~~this act~~ July 1, 2015, shall not be considered a new student data
9 collection in accordance with subparagraph a of paragraph 7 of
10 subsection C of this section.

11 ~~F. G.~~ Nothing in ~~this act~~ the Student Data Accessibility,
12 Transparency and Accountability Act of 2013 shall interfere with the
13 State Department of Education's compliance with the Educational
14 Accountability Reform Act.

15 SECTION 2. This act shall become effective July 1, 2020.

16 SECTION 3. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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